

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

HOTEL ROSLYN, LLC f/k/a ELLEN & NILS,
LLC and SKOBO, LLC,

Plaintiffs,

v.

AMGUARD INSURANCE COMPANY,
a Pennsylvania corporation,

Defendant.

Case No.: _____

**DEFENDANT'S NOTICE OF
REMOVAL UNDER 28 U.S.C.
§ 1441(b) (DIVERSITY)**

(CLERK'S ACTION REQUIRED)

TO: THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE WESTERN
DISTRICT OF WASHINGTON

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. § 1441 and § 1146, AmGuard Insurance Company (hereinafter, "AmGuard") hereby removes to this Court the state court action entitled *Hotel Roslyn, LLC et al. v. AmGuard Insurance Company*, pending in the Superior Court of the State of Washington in and for the County of King, under Case No. 22-2-13324-4 SEA (the "State Court Action") on the grounds of diversity jurisdiction.

NOTICE OF REMOVAL UNDER 28 U.S.C. § 1441 (b)
(DIVERSITY) - 1

LAW OFFICES OF
COZEN O'CONNOR
A PROFESSIONAL CORPORATION
999 THIRD AVENUE
SUITE 1900
SEATTLE, WASHINGTON 98104
(206) 340-1000

I. PROCEDURAL HISTORY

Plaintiffs Hotel Roslyn, LLC f/k/a Ellen & Nils, LLC and Skobo, LLC (“Plaintiffs”), may have served AmGuard as early as August, 23 2022.¹ Declaration of Kevin A. Michael (“Michael Decl.”) at **Ex. A**. A copy of the Complaint in the State Court Action is attached as **Ex. B** (“Complaint”) to the Michael Decl. Removal is thus timely under 28 U.S.C. § 1446(b) because 30 days or fewer have passed since service of the Summons and Complaint upon AmGuard.

II. NATURE OF DISPUTE

This is an insurance coverage dispute. AmGuard issued Business Owners Policy No. HOBP288601 (the “Policy”) to Plaintiffs, which Policy provides certain insurance coverages for the Hotel Roslyn, located in Roslyn, Washington. Plaintiffs contend they experienced a water damage claim they believe should be covered by the Policy. Plaintiffs’ lawsuit alleges that AmGuard has not properly investigated Plaintiffs’ claim and improperly denied coverage for Plaintiffs’ alleged loss. Plaintiffs allege breach of contract, common law bad faith, breach of the Washington State Consumer Protection Act, RCW Ch. 19.86, *et seq.*, and violation the Insurance Fair Conduct Act pursuant to RCW 48.30.010 *et seq.*, Complaint, ¶¶ 50-71.

III. GROUNDS FOR REMOVAL

The State Court Action is a civil action over which this Court has original jurisdiction under 28 U.S.C. § 1332, and is one which may be removed to this Court by Defendant AmGuard pursuant to U.S.C. § 1441(b) because it is a civil action between citizens of different states and the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

¹ AmGuard does not concede that this service was proper. But in an abundance of caution, it files this Notice of Removal within 30 days of that alleged service.

A. The Amount in Controversy Is Satisfied Because Plaintiffs Are Seeking Damages in Excess of \$75,000.

In the State Court Action, Plaintiffs allege that AmGuard is responsible for damages to Plaintiffs' property in excess of \$170,000. *See* Complaint at ¶ 53 ("By breaching the terms of the Policy, AmGUARD has caused and continues to cause Plaintiffs' damages in an amount to be proven at trial but not less than \$170,000."). In addition to actual damages, Plaintiffs seek treble damages under the Washington State Consumer Protection Act, 19.86 *et seq.* up to \$25,000 per violation, treble damages under the Insurance Fair Conduct Act, RCW 48.30 *et seq.*, and attorneys' fees and costs. Although AmGuard denies these allegations, based on the allegations in Plaintiffs' Complaint, Plaintiffs seek damages well in excess of the jurisdictional amount of \$75,000.

B. Complete Diversity Exists Because Plaintiffs Are Citizens of Washington, Whereas Defendant Is a Citizen of Pennsylvania.

A corporation is a citizen of any state in which it is incorporated and the state where it maintains its principal place of business. 28 U.S.C. § 1332(c). *See Corral v. Portfolio Servicing, Inc.*, 878 F.3d 770, 774 (9th Cir. 2017). AmGuard is incorporated and domiciled in Pennsylvania and maintains its principal place of business in Wilkes-Barre, Pennsylvania. *See* Complaint at ¶ 3; Michael Decl., **Ex. C**. AmGuard is therefore a citizen of Pennsylvania. The Complaint filed in the State Court Action alleges that Hotel Roslyn, LLC f/k/a Ellen & Nils, LLC, is a Washington limited liability company domiciled in King County, Washington. Complaint at ¶ 1. The Complaint filed in the State Court Action further alleges that Skobo, LLC is a Washington limited liability company domiciled in King County, Washington. Complaint at ¶ 2. Accordingly, Plaintiffs are citizens of Washington and Defendant AmGuard is a citizen of Pennsylvania. Complete diversity exists between Plaintiffs and Defendant.

NOTICE OF REMOVAL UNDER 28 U.S.C. § 1441 (b)
(DIVERSITY) - 3

LAW OFFICES OF
COZEN O'CONNOR
A PROFESSIONAL CORPORATION
999 THIRD AVENUE
SUITE 1900
SEATTLE, WASHINGTON 98104
(206) 340-1000

C. Venue Is Proper.

Removal to this Court is proper because the State Court Action was filed in this Court's district (King County, Washington). *See*, 28 U.S.C. § 1441(a).

IV. STATE COURT PLEADINGS

Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings and orders in the State Court Action served upon AmGuard as of September 22, 2022, are filed with this Notice of Removal of Civil Action as follows:

- (1) Declaration of Service (Exhibit A);
- (2) Complaint (Exhibit B);
- (3) Case Information Cover Sheet (Exhibit D);
- (4) Summons (Exhibit E); and
- (5) Order Setting Case Schedule (Exhibit F).

There are no hearings or motions currently pending in the State Court Action.

V. CONCLUSION

Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal of Civil Action will be promptly filed in the State Court Action and served upon Plaintiffs.

Based on the foregoing, AmGuard removes to this Court the State Court Action.

DATED this 22nd of September, 2022.

COZEN O'CONNOR

By: /s/ Kevin A. Michael
Kevin A. Michael, WSBA No. 36976

/s/ John McDonald
John McDonald, WSBA No. 57511
999 Third Avenue, Suite 1900
Seattle, WA 98104
Telephone: 206.340.1000
Toll Free Phone: 800.423.1950
Facsimile: 206.621.8783
Attorneys for AmGuard Insurance Company

NOTICE OF REMOVAL UNDER 28 U.S.C. § 1441 (b)
(DIVERSITY) - 4

LAW OFFICES OF
COZEN O'CONNOR
A PROFESSIONAL CORPORATION
999 THIRD AVENUE
SUITE 1900
SEATTLE, WASHINGTON 98104
(206) 340-1000

CERTIFICATE OF SERVICE

I hereby certify that on September 22, 2022, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to counsel of record.

Also, on September 22, 2022, I caused the foregoing document to be served upon counsel of record at the address and in the matter described below:

Counsel for Plaintiffs:

James T. Yand, WSBA #18730
 Miller Nash LLP
 Pier 70 – 2801 Alaska Way, Suite 300
 Seattle, WA 98121
 Phone: 206.624.8300
 Fax: 206.340.9599
 Email: james.yand@millernash.com

() Via Legal Messenger
 () Via Overnight Courier
 () Via Facsimile
 (X) Via ECF
 (X) Via Email

SIGNED AND DATED this 22rd day of September, 2022.

COZEN O'CONNOR

By /s/ Leslie Yamashita

Leslie Yamashita, Legal Assistant

999 Third Avenue, Suite 1900
 Seattle, WA 98104
 Telephone: 206.340.1000
 Toll Free Phone: 800.423.1950
 Facsimile: 206.621.8783

LEGAL\22804073\1 88888.8888.888/803159.000

NOTICE OF REMOVAL UNDER 28 U.S.C. § 1441 (b)
 (DIVERSITY) - 5

LEGAL\59671242\1

LAW OFFICES OF
COZEN O'CONNOR
 A PROFESSIONAL CORPORATION
 999 THIRD AVENUE
 SUITE 1900
 SEATTLE, WASHINGTON 98104
 (206) 340-1000